

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

MARY BETH BRACKIN,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:05-CV-1172-MEF
)	
CITY OF DOTHAN and JUDGE)	
ROSE EVANS-GORDON,)	
)	
Defendants.)	

DEFENDANTS' PROPOSED VOIR DIRE QUESTIONS

COME NOW Defendants Judge Rose Evans-Gordon and the City of Dothan, by and through their counsel, and propose the following voir dire examination of the jury venue in this case.

PREVIOUS JURY SERVICE

1. Have any of you ever been through jury selection before?
2. Have any of you served on a jury before?
 - a. What kind of case was it? Criminal or civil?
 - b. Do you recall the outcome?
3. Were you the foreperson?

WITNESS IN A PRIOR CASE

4. Have any of you ever been a witness in a trial of any kind?

- a. For whom?
 - b. Why were you called as a witness?
 - c. What was the outcome?
5. Have any of you ever given a deposition or a sworn statement in a case or legal proceeding?

KNOW ATTORNEYS

6. Do you know (Len White, Carol Sue Nelson or Chris Mitchell) or any other lawyers or people who work at Maynard, Cooper & Gale or the City of Dothan?
 - a. Has anyone from the firm of Maynard, Cooper & Gale, P.C. ever represented you or a family member?
7. Have any of you ever been in any case or matter where Maynard, Cooper & Gale has been involved?
8. Has anyone here or anyone in your family been represented by Ishmael Jaffree, the Plaintiff's attorney?
 - a. Have you ever consulted with him?
 - b. Have you ever heard of Ishmael Jaffree?
 - c. Are you friends with Ishmael Jaffree?
 - d. Did you ever consult with him when worked for Legal Services?
 - e. Have you consulted with Legal Services for legal advice or representation?

LAWSUIT AND CLAIMS

9. Have you ever been involved in your own lawsuit against anyone? Has anyone in your family ever been involved in a lawsuit before?
 - a. Have you ever been sued by someone before?
 - b. Were you the plaintiff or the defendant? What kind of case was it? What was the result?
10. Have you ever been threatened with a lawsuit?

11. Have you ever threatened to bring a lawsuit?

Before we get into our questions specifically related to our case, dWould your experience affect your ability to weigh the evidence in this case?

OPEN MIND

13. Every time you hear something in this case from Carol Sue Nelson, Len White or Chris Mitchell they will be following Mr. Jaffree. He will give his opening statement first, call the first witnesses, and give his closing argument first because he bears the burden of proof in this case. He may even call witnesses from the City before he calls the Plaintiff to testify. One of the most important aspects of being a juror is having the ability to keep an open mind until you hear all of the evidence. Do any of you have concerns that you will have any trouble keeping an open mind if you hear mainly from Mr. Jaffree for a day or two before hearing all of the testimony and evidence?

OUTLINE OF THE CASE

14. This lawsuit is brought by Mary Beth Brackin who worked as a Magistrate in the City of Dothan's Judicial Department. She claims she was terminated because of her race. She also claims she was terminated and in retaliation for engaging in free speech and association with a Magistrate named Mary Turner who was placed on leave of absence pending a ticket-fixing investigation. Ms. Turner was later terminated and indicted for extortion in connection with the ticket-fixing scheme. During the ticket fixing investigation by the Dothan Police Department the Magistrates were instructed not to contact Mary Turner while the investigation was pending. Despite this, Plaintiff Brackin called Ms. Turner. Ms. Brackin claims that instructions given to the Magistrates not to contact Ms. Turner during the investigation violated her right to free speech and association. The City and Judge Gordon deny that Ms. Brackin was discriminated against because of her race and deny that they violated her right of free speech and association. The City and Judge Gordon claim that the Plaintiff was terminated for legitimate reasons, i.e., Ms. Brackin committed two major offenses under the City's Personnel Rules within a 24-month period which caused her to be terminated. On two separate occasions (once in 2004 and again in 2005 which involved the ticket fixing investigation) she disobeyed the clear instructions of Judge Gordon and was terminated.

- a. Based on this brief description, have you heard anything about this case?
- b. For those who have been on a jury before, would your experience as a juror give your special concerns or insights regarding these facts?

KNOW PLAINTIFFS, FAMILY, WITNESSES

15. Does anyone know the Plaintiff Mary Beth Brackin?

- a. How long have you known her?
- b. Are you related to her?
- c. Do you consider her to be a friend?
- d. Knowing that she is a friend of yours do you have any concern at all about whether your friendship would affect your ability to sit as a juror on a case where she is seeking damages?

16. During this trial, you may also hear the names of some of the Plaintiff's family members, her children, husband and ex-husbands. I'm going to call some of those names and you tell me if any of them are familiar to you.

A. Names

- 1. Joseph Allen Houston Brackin (Husband)
- 2. Ronnie Allen Monday (Ex-Husband)
- 3. Michael Monday (Son)
- 4. Matthew Brackin (Son)
- 5. Nell McKay Sizemore (Mother)
- 6. Linda Collins (Sister)
- 7. Mona Moore (Sister)
- 8. Debbie Bachelor (Sister)
- 9. Charles Sizemore (Brother)

- B. Are those names familiar to any of you?
- C. Do you know any of them?
- D. How long have you known him/her?
- E. How do you know him/her?
- F. Would you consider him/her to be a friend?
- G. Would your friendship affect your ability to sit as a juror on a case involving her mother/ his wife (ex-wife)?

17. During this trial, you may also hear the names of people who are not parties and you may hear testimony from or about some of these people. As I name each of these people, will you raise your hand if you know any of them?

- A. Kai Davis
- B. Kevan Kelly
- C. Jerry Corbin
- D. Mary Turner
- E. Former Police Chief John White
- F. Police Chief John Powell
- G. Michelle Sellers
- H. Jennifer Metzger
- I. Ashton Ott
- J. Ann Baxter
- K. Police Captain Steve Parrish
- L. Eunice Knight
- M. LaVera McClain
- N. Police Lieutenant Keith Gray
- O. Police Lieutenant Ray Owens
- P. Mike West
- Q. Gary Coleman
- R. Sarah Fowler
- S. Michelle Bryan
- T. Melanie Walsh
- U. Valerie Savage
- V. Theron Fondren
- W. Mayor Jean Watson
- X. Mattie Boyd
- Y. Jerry Boyd
- Z. Nancy Martin

18. Did anyone attend Rehoboth High School?

- a. What year?
- b. Did you know Mary Beth Brackin during that time?
- c. Would this cause you any concern about being fair to the City or Judge Gordon in this case?

CITY OF DOTHAN/JUDGE GORDON

19. Are any of you familiar in any way with the City of Dothan or the Dothan Municipal Court or the Judicial Department?
20. Are any of you familiar with Judge Rose Evans-Gordan?
21. Has anyone here ever worked for the City? Has a friend or family member ever worked for the City? Do you know anyone who has ever worked for the City?
 - a. At what location did he/she work?
 - b. Are they still employed there?
 - c. Did they leave on good terms?
 - d. What position does he/she hold with the City?
 - e. How long have they worked there?
 - f. Has he/she expressed any dissatisfaction with his/her job?
 - g. Were they supervisors or members of management?
 - h. Have any of you appeared before Judge Gordon in Dothan Municipal Court.?
22. Has anyone ever had a bad experience with the City or Judge Gordon or the Municipal Court, whether it be with one of their employees or with any of their practices?
23. Has anyone ever had a good experience with the City or the Judge or the Municipal Court, whether it be with one of their employees or with any of their practices?
24. Do any of you have any reason to believe that the City or the Municipal Court is not a good place to work?
25. Is there any reason you'd be concerned about being fair to the City or the Judge or the Municipal Court in deciding the issues in this case?
26. Have any of you ever worked for any City, City court or Magistrate's office?
27. Do any of you have any reason to think the City terminates employees because they are white?

28. Do any of you have personal concerns about whether white employees are treated fairly on the job?
29. Do any panel members have a feeling at all about equal treatment between races at work?
30. Is any member uncomfortable with the use of the terms white, black, Caucasian or African-American in reference to a person's race?
 - a. Do you have a preference for one or the other term?

CORPORATION/CITY AS EMPLOYER

31. Have any of you, your family, or friends ever felt mistreated by a corporation or an employer? By a manager or supervisor?
32. Do any of you think that you could be more likely to find for the Plaintiff because she is an individual who is suing a city?
33. If the Plaintiff fails to prove her race discrimination claim or free speech/association claim against the City or Judge but you feel her disappointment in her losing her job, could you render a verdict against them?
34. Does anyone here feel that just because a case gets to trial the Plaintiff is entitled to be paid something?
35. Even if you don't agree with the City's decision to terminate the Plaintiff or the manner in which the termination was handled, if the evidence fails to show that the Plaintiff was terminated because of her race or her speech and association, is there any reason you would not return a verdict for the City?
36. Are any of you responsible for supervising employees or administering discipline?
37. Do you believe it is appropriate to discipline an employee based on insubordination or disobeying a reasonable instruction from their supervisor?

38. How many of you believe that it is fair to discipline employees who do not follow a company's policies or instructions?
39. Do you feel the City can establish rules for employees to follow?
40. Do you believe it is appropriate to discipline an employee for negligence in performing their job or conduct with causes or may cause a financial loss to their employer?

EEOC

41. Have you or any member of your family or a friend ever filed a grievance or claim of any type against or had any type of dispute with any present or former employer?
42. Does your workplace have a procedure for filing grievances or voicing complaints?
43. Have you, any member of your family or a friend ever filed a charge of employment discrimination based on age, race, sex, religion, national origin or disability with the Equal Employment Opportunity Commission (EEOC)?
 - a. What was the nature of the charge?
 - b. Who was the charge brought against?
 - c. What was the outcome?
44. Is there anything that I've told you or asked you so far that would prevent you from being fair and impartial?

JURORS' EMPLOYMENT HISTORY—MAGISTRATES/ POLICE OFFICERS

45. As I mentioned, the Plaintiff in this case worked in the City's Judicial Department. You may hear from Magistrates and Police Officers who investigated ticket-fixing allegations in the Magistrate's office. Are any of you Magistrates? Police Officers? Do any of you have close family members or friends who are Magistrates or Police Officers or who work in city government?
46. Have you ever had a bad or negative experience with a Magistrate or Police Officer?

- a. If so, would this cause you to have problems being fair to the City in this case?
47. Police Investigations.
- a. Do you believe it is appropriate for a city to investigate allegations of ticket fixing? Wrongdoing? Or criminal conduct in the workplace?
48. If a police investigation is pending regarding possible criminal activity in the workplace, do you feel it is unreasonable for the Police or the employer to place reasonable restrictions on employees during the investigation by requiring them not to contact the employee suspected of wrongdoing?
49. Has anyone ever worked for the City of Headland? The City of Newton? Law Office of Valerie Judah? Provident Christian School?
- a. What job did you perform there?
 - b. When did you work there?
 - c. For how long?
 - d. Did you know Mary Beth Brackin during that time?
 - e. Would this cause you to have problems being fair to the City in this case?

JURORS' EMPLOYMENT HISTORY—SUPERVISORS

50. Have any of you or your family members or friends ever owned your own business?
- a. What type of business?
 - b. When?
 - c. Where?
 - d. How many employees?
51. Are you, your family, or friends currently a supervisor or manager in charge of other people?
- a. Have any of you ever held a supervisor or manager position—in charge of other people?
 - b. Did you have the authority to hire or fire other employees?

- 52. Does anyone hold leadership positions in civic organizations? Church groups?
- 53. For those who are in those positions, have you ever had to handle complaints from employees or team members?
 - a. What type of complaints did you handle?
 - b. How did you handle them?

JURORS' EMPLOYMENT HISTORY—TERMINATED FROM JOB

- 54. Have you or anyone close to you ever been reprimanded received a disciplinary action or write up by a supervisor?
 - a. How did you respond?
 - b. Do you think that experience would affect your ability to be fair to the City or Judge Gordon?
- 55. Have you ever been reprimanded or disciplined for insubordination, negligence in carrying out your job duties or engaging in conduct that could cause a financial loss to your employer?
- 56. Most of us have known or know someone who has been disciplined or who has been terminated from a job. Have any of you been terminated from a job? Do any of you have close family members or close friends who have been terminated?
 - a. When were you terminated and why?
 - b. How did you respond?
 - c. Do you believe you should have been terminated?
 - d. Knowing that this is a termination case do you think that this would cause you to have problems being fair to the City or Judge Gordon in this case?

DISCRIMINATION

- 57. Do any of you have a supervisor who is not the same race as you?
 - a. Do you feel that your supervisor treats minority and non-minority employees equally?

58. Do any of you feel that you or a member of your family has been the victim of employment discrimination? (Do you feel that you, a family member or friend have been terminated, not granted a promotion, not hired or paid equal wages because of our race, national origin, disability, age, sex, or religion?)
59. Do any of you feel that you, a family member or friend has experienced any sort of discrimination in the workplace?
60. Have you ever been accused of discriminating against someone?
61. When it comes to the treatment of its employees, how many of you believe that most employers are concerned with being fair?
62. Do any of you feel like white employees should be treated more favorably than African-American employees?
63. Do any of you feel that if a white employee was terminated by an African-American supervisor this somehow constitutes evidence of racial discrimination?
64. Do any of you believe that a company or a city should continue to employ an employee who has violated work rules simply because the employee is white?
65. Would you be inclined to think that because a white employee lost her job that race was a factor in her termination?
66. Would any of you be inclined to think that simply because a white employee was terminated from her job and replaced by a white employee that the white employee was discriminated against?
67. When an employee believes that she has been discriminated against, do any of you most of the time believe that you can simply take the person's word for it?
 - a. On the other hand, how many of you believe that the employee needs to come forward with proof and evidence and facts to support that belief?

- 68. Do you believe that an employer should have the right to terminate employees who do not follow the company's policies and procedures?
- 69. Do you believe that an employer should have the right to terminate employees who are insubordinate or disobey their supervisor?

FIRST AMENDMENT

- 70. Does anyone believe that the right to free speech allows you to do or say anything in the workplace, even if it violates work place rules?
- 71. Do you believe that a city may impose reasonable restrictions on what an employee may do or say at work? Does anyone disagree with this?
- 72. The First Amendment does not prohibit an employer from disciplining an employee for speaking about certain matters related to their work or their job. Does anyone agree with this?

LAWYERS

- 73. Has anyone had any legal training or work in the legal profession or for a law firm?
- 74. Does anyone have any immediate family member who is a lawyer or in the legal profession?
- 75. Has anyone received any compensation from a law firm for any service?
- 76. At the end of the evidence, if you were to conclude that the City's termination of the Plaintiff wasn't fair or that you would have reached a different decision, but you also conclude that race was not a factor, would any of you have a problem with deciding this case in the City's favor?
- 77. Are any of you members of any clubs or organizations that have white rights as one of its priorities or goals? Are any of you members of any club or organizations that have minority rights as one of its priorities or goals?
 - a. What organizations?

- b. Would your membership in any of these organizations affect your ability to follow the law and render a fair and impartial verdict in this case?

CONCLUSION

78. Do you believe that you can base your verdict only on the evidence?
79. During this trial, there may be times when the lawyers have to stand up to object to something. Would you understand that is their job and not think less of them or their client because we do that?
80. Can you wait until all the evidence is in before starting to make your mind up about this case?
81. Is anyone sitting and thinking that I should have asked a particular question that would have told us something that might impact whether you could be a fair and impartial juror in this case?

Respectfully submitted,

/s/ Carol Sue Nelson

Carol Sue Nelson

One of the Attorneys for Defendants

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that on February 29, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Ishmael Jaffree, Esq.
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Suite 106 B
Mobile, Alabama

/s/ Carol Sue Nelson
OF COUNSEL